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APPLICATION N	О.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/541,875		04/05/2006	Jurgen Dorn	568-PDD-02-08-US-[57P]	7921		
69683 C. R. Baro	7590 d. Inc.	09/30/201	EXAMINER				
Bard Perip	pheral Va	ascular, Inc.	WEBB, SARAH K				
1415 W. 3rd St PO Box 1740				ART UNIT	PAPER NUMBER		
Tempe, A	Tempe, AZ 85280-1740				3731		
				NOTIFICATION DATE	DELIVERY MODE		
				09/30/2010	ELECTRONIC		

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

BPVIP.Docket@crbard.com Jacki.Daspit@crbard.com Patents@Rutan.com

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/541,875	DORN ET AL.	
Examiner	Art Unit	
SARAH WEBB	3731	

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 15 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavd, or other evidence, which places the application in condition for allowance, (2) a Notice of Appeal (1) an amendment, affidavd, or other evidence, which places the application in condition for allowance, (2) a Notice of Appeal (1) an amendment, affidavd, or other evidence, which places the application in condition for selections and the correct of the condition of the following time of the properties on the condition of the following time o		SARAH WEBB	3731	
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To a void abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidative, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13t; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  □ The period for reply expiresmonths from the mailing date of the final rejection.  □ The period for reply expiresmonths from the mailing date of the final rejection.  Examiner Note: I flox 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRMA REJECTION. See MPEP 706.37(1).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee harder by the date for rupposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee harder years are part of the period for reply originals are in the final Office action, or (2) as many reduce any semide patient term adjustment. See 37 CFR 1.136(a). The Office of Appeal was filed on A brief in compliance with 37 CFR 4.137(m), to avoid dismissal of the appeal. Since a Notice of Appeal was been flied, any reply must be filed within the time period set from in 37 CFR 4.137(a).  In Province of Appeal (a) and the period of extension thereof (37 CFR 4.137(a)), to avoid dismissal of the appeal. Since a Notice of Appeal was been flied, any reply must be filed within the time period set from in 37 CFR 4.137(a).  MEDICAL PROVINCE OF APPEAL.  □ The Notice of Appeal was been flied, any reply must be filed within the time period set from in 37 CFR 4.137(a).  □ The vertoes of Appeal was been flied, any reply must be filed within the	The MAILING DATE of this communication appe	ars on the cover sheet with the	correspondence add	ress
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a)	THE REPLY FILED 15 September 2010 FAILS TO PLACE THIS	S APPLICATION IN CONDITION	FOR ALLOWANCE.	
<ul> <li>a) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will be a status operator for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(1).</li> <li>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.137(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if steep length representations are considered to the state of the properties of the final rejection, even if steep the may reduce any earned patient term adjustment. See 37 CFR 1.704(b).</li> <li>Control Co C APPEAL</li> <li>The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (w), to avoid disminissal of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</li> <li>M The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);</li> <li>They raise the issue of new matter (see NOTE below);</li> <li>They present additional claims without canceling a corresponding number of finally rejected claims.</li> <li>NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).</li> <li>The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</li></ul>	application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affida eal (with appeal fee) in complianc	vit, or other evidence, v e with 37 CFR 41.31; o	which places the r (3) a Request
no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shorteed statutory period for reply originally set in the final Office action; or (2) set forth in (1) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if smelt filed, any return expects of the final rejection, even if smelt filed in the final rejection of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing a brief, will not be entered because (a) The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b)		date of the final rejection.		
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the feet. The appropriate extension feet under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortned statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if smely filed, may reduce any exame platent term adjustment. See 37 CFR 1.70(a) (2) as the property of the propert	no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (	ater than SIX MONTHS from the maili b). ONLY CHECK BOX (b) WHEN TH	ng date of the final rejection	on.
Filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).    MMENDMENTS	have been filed is the date for purposes of determining the period of ext under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (0) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	ension and the corresponding amour hortened statutory period for reply or than three months after the mailing d	t of the fee. The appropri ginally set in the final Office	ate extension fee to action; or (2) as
3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise the issue of new matter (see NOTE below);  (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).  4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. ☐ Applicant's reply has overcome the following rejection(s):	filing the Notice of Appeal (37 CFR 41.37(a)), or any exter Notice of Appeal has been filed, any reply must be filed wi	sion thereof (37 CFR 41.37(e)),	o avoid dismissal of the	
(a)				
appeal; and/or (d)	<ul> <li>(a)          \overline{\text{M}}         They raise new issues that would require further core         (b)          \text{They raise the issue of new matter (see NOTE below</li></ul>	nsideration and/or search (see NO w);	OTE below);	
(d) They present additional claims without canceling a corresponding number of finalty rejected claims.  NOTE: See Continuation Sheet: (See 37 CFR 1.116 and 41.33(a)).  1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. Applicant's reply has overcome the following rejection(s):		ter form for appeal by materially r	educing or simplifying t	he issues for
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): ☐ Newly proposed or amended claim(s) — would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s). ☐ When the non-allowable claim(s) is of will be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s). ☐ When the new or amended claims would be rejected is provided below or appended. ☐ The status of the claim(s) is (or will be) as follows: Claim(s) allowed: ☐ Claim(s) objected to ☐ Claim(s) withdrawn from consideration: 27-43.  AFFIDAVIT OR OTHER EVIDENCE 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence filed for overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons with it is necessary and was not earlier presented. See 37 CFR 1.116(e). 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REOUEST FOR RECONSIDERATION/OTHER. 11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s		corresponding number of finally re	jected claims.	
5.			•	
6.	<ol> <li>The amendments are not in compliance with 37 CFR 1.12</li> </ol>	21. See attached Notice of Non-C	ompliant Amendment (	PTOL-324).
non-allowable claim(s).  Now froe proposes of appeal, the proposed amendment(s): a) \( \triangle \) will not be entered, or b) \( \triangle \) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) objected to: \( \triangle \) (claim(s) obje				
7.		owable if submitted in a separate	, timely filed amendme	nt canceling the
Claim(s) objected to: Claim(s) ejected: _1_26. Claim(s) ejected: _1_26. Claim(s) ejected: _1_26. Claim(s) ejected: _1_26.  AFFIDAVIT OR OTHER EVIDENCE  8.	7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is proved the status of the claim(s) is (or will be) as follows:		vill be entered and an e	xplanation of
AFIDAYT OR OTHER EVIDENCE    AFIDAYT OR OTHER EVIDENCE	Claim(s) objected to: Claim(s) rejected: <u>1-26</u> .			
8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all ejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  (PTO/SB/08)  Anhtuan T. Nguyen/  (SARAH WEBB/				
entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons wity it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10.	<ol> <li>The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good and</li> </ol>			
REQUEST FOR RECONSIDERATION/OTHER  11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)  13.  Other:  /Anhtuan T. Nguyen/ / SARAH WEBB/	entered because the affidavit or other evidence failed to o	vercome <u>all</u> rejections under app	eal and/or appellant fail	s to provide a
11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  13. Other:  /Anhtuan T. Nguyen/  /SARAH WEBB/		n of the status of the claims after	entry is below or attach	ed.
13. ☐ Other:  /Anhtuan T. Nguyen/ /SARAH WEBB/		does NOT place the application	in condition for allowan	ce because:
70/11/11	= ''	PTO/SB/08) Paper No(s)		
			1	

Continuation of 3. NOTE: The claim amendments necessitate further search and review of the prior art to determine their patentability.